

CHAPTER 20 - RULEMAKING
§§20.1 - 20.5, 20.7, 20.9, 20.11, 20.13, 20.15, 20.17
Effective March 27, 2003

§20.1. General.

This chapter applies to commission rulemaking.

Adopted May 8, 1996

Effective June 6, 1996

§20.2. Policy.

Rulemaking hearings shall be conducted in the manner the commission deems most suitable to obtain all relevant information and testimony on proposed rules as conveniently, inexpensively, and expeditiously as possible without prejudicing the rights of any person.

Adopted May 8, 1996

Effective June 6, 1996

§20.3. APA Rulemaking.

The commission shall follow APA rulemaking requirements.

Adopted May 8, 1996

Effective June 6, 1996

§20.4. Indexing, Cross-Indexing, and Availability of Certain Documents.

(a) This section applies only to final versions of the following documents that are in effect:

- (1) rules;
- (2) other written statements of policy or interpretations that are prepared, adopted, or used by the agency in discharging its functions;
- (3) orders;
- (4) decisions; and
- (5) opinions.

(b) For the purposes of this section, the following words or phrases shall have the following meanings.

(1) **Index** - To produce or furnish, as an aid in making documents accessible to the public, one or more of the following:

(A) a table of contents;

(B) a current list of the titles, identifying names, or identifying numbers of the documents;

(C) an orderly filing system by which those documents may be retrieved; or

(D) an electronic database of documents by which at least the titles, identifying names, or identifying numbers of those documents can be searched.

(2) **Cross-index to statute** -

(A) For rules: to cross-reference or cite statutory authority, for proposing or adopting the rule, according to the requirements of the APA, *Texas Register* rules, and other applicable law.

(B) For written statements of policy or interpretations that are prepared, adopted, or used by the agency in discharging its functions, orders, decisions, and opinions: to cross-reference or cite statutory or regulatory authority within the document.

(c) The agency shall index, cross-index to statute, and make available for public inspection the following:

(1) rules;

(2) other written statements of policy or interpretations that are prepared, adopted, or used by the agency in discharging its functions;

(3) orders;

(4) decisions; and

(5) opinions.

Adopted March 27, 2002

Effective April 18, 2002

§20.5. Mailing List of Persons Requesting Notice of Rulemaking.

The executive director shall maintain a mailing list of persons requesting advance notice of proposed commission rules. When the commission sends notice of proposed rules to the secretary of

state, the executive director shall also send notice of proposed rules by regular mail to each person on the list; however, failure to provide the notice does not invalidate any action taken or rule adopted. At the end of each state fiscal year, the executive director will notify all persons included on the list of the requirement to affirmatively express a desire to continue receiving the notices described herein, and shall eliminate those persons on the list who do not respond within 30 days of this notification.

Adopted May 8, 1996

Effective June 6, 1996

§20.7 . Appearance.

Any person may appear in person or by authorized representative at a rulemaking hearing. A representative shall disclose his authority to speak for the person represented.

Adopted May 8, 1996

Effective June 6, 1996

§20.9. Submission of Documents.

Written documents may be submitted to the executive director no later than the time of the hearing or by 5:00 p.m. on the last day of the comment period, whichever is later.

Adopted March 5, 2003

Effective March 27, 2003

§20.11. Oral Presentations.

(a) A person desiring to make an oral presentation shall so indicate on the commission's registration form provided at the hearing.

(b) The presiding officer will establish the order of presentations at the hearing.

(c) When necessary, the presiding officer may limit:

- (1) the number of times a person may speak;
- (2) the time period for oral presentations; and
- (3) the time period for raising questions.

(d) The presiding officer may limit or exclude cumulative, irrelevant, or unduly repetitious presentations.

Adopted May 8, 1996

Effective June 6, 1996

§20.13. Action after Hearing Concluded.

(a) After the close of the hearing and the receipt of all documents, the presiding officer shall prepare a report to the commission, which shall include:

- (1) a summary of the subject of the hearing;
- (2) a review and analysis of the comments submitted;
- (3) any revisions recommended as the result of public comment presented;
- (4) a copy of the rule as recommended for adoption; and
- (5) other pertinent information.

(b) The report shall be submitted to the commission for final action.

Adopted May 8, 1996

Effective June 6, 1996

§20.15. Petition for Adoption of Rules.

(a) Any person may petition the commission to request the adoption of a rule. Petitions shall be submitted in writing to: Executive Director, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, and shall comply with the following requirements:

- (1) each rule requested must be submitted by separate petition;
- (2) each petition must state the name and address of the petitioner;
- (3) each petition shall include:
 - (A) a brief explanation of the proposed rule;
 - (B) the text of the proposed rule prepared in a manner to indicate the words to be added or deleted from the text of the current rule, if any;
 - (C) a statement of the statutory or other authority under which the proposed rule is to be promulgated; and
 - (D) an allegation of injury or inequity that could result from the failure to adopt the proposed rule.

(b) A petition may be denied for failure to comply with the requirements of subsection (a) of this section.

(c) Within 60 days after submission of a petition, the commission shall consider the petition and shall either deny the petition in writing, stating its reasons for the denial, or shall initiate rulemaking proceedings in accordance with the APA.

Adopted March 5, 2003

Effective March 27, 2003

§20.17. Emergency Rules.

If the commission finds that an imminent peril or extraordinary circumstance may threaten the public health, safety, or welfare or the integrity of the commission's regulatory programs, and requires the adoption of a rule on less than 30 day's notice, it may adopt an emergency rule without prior notice and hearing or with any abbreviated notice and hearing that it finds practicable under the circumstances. The commission shall make a written finding which shall be filed with the secretary of state setting forth its reasons for such determination. The emergency rule shall be effective immediately upon filing with the secretary of state and will continue in effect for a period of up to 120 days. The emergency rule may be renewed once before expiration for a period of 60 days.

Adopted May 8, 1996

Effective June 6, 1996

Derivation Table
Rule Log No. 95123-263-AD
Procedural Rules
Adopted May 8, 1996
Effective June 6, 1996

Chapter 20 - Rulemaking

This table is to be used to track sections after rule revisions. The column on the left should list the sections after the revision. The column on the right should list where the section was prior to the revision.

New Section	Old Section
20.1	275.71
20.2	275.72
20.3	New
20.5	275.73
20.7	275.74
20.9	275.75
20.11	275.76
20.13	275.77
20.15	275.78
20.17	275.79
20.19	275.80